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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

IN RE APPLE IPHONE ANTITRUST  
LITIGATION

Case No. 4:11-cv-06714-YGR

\_\_\_\_\_  
DONALD R. CAMERON, et al.,  
Plaintiffs,  
v.  
APPLE INC.  
Defendant.

) No. 4:19-cv-03074-YGR  
\_\_\_\_\_  
**MOTION TO VACATE AND [PROPOSED]  
ORDERS ENTERING SUPPLEMENTAL  
PROTECTIVE ORDERS**

Defendant.

) The Honorable Yvonne Gonzalez Rogers

EPIC GAMES, INC.,  
Plaintiff,  
v.  
APPLE INC.,  
Defendant.

) No. 4:20-cv-05640-YGR-TSH

MOTION TO VACATE AND [PROPOSED] ORDERS ENTERING SUPPLEMENTAL PROTECTIVE  
ORDERS

Case Nos.: 11-cv-06714-YGR; 19-cv-03074-YGR; 20-cv-05640-YGR

1           On April 30, 2021, Consumer Plaintiffs filed an Administrative Motion for Entry of  
 2 Supplemental Protective Orders (the “Original Supplemental Protective Orders”) on behalf of four  
 3 third-party app developers (Zynga, Inc.; Niantic, Inc.; The Walt Disney Company; and Electronic  
 4 Arts, Inc.). *See* Case No. 4:11-cv-06714-YGR at Dkt. 435; Case No. 4:19-cv-03074-YGR at Dkt.  
 5 323; and Case No. 4:20-cv-05640-YGR at Dkt. 562. Apple subsequently met and conferred with  
 6 each of these third-party app developers and was able to reach an agreement with each for entry of  
 7 Supplemental Protective Orders (the “Revised Supplemental Protective Orders”). Apple  
 8 submitted filings containing the Revised Supplemental Protective Orders. *See* Case No. 4:11-cv-  
 9 06714-YGR at Dkts. 437, 438 (Exhibits A and B) and 439 (referencing Dkt. 438 Exhibits D and  
 10 F); Case No. 4:19-cv-03074-YGR at Dkts. 327, 328 (Exhibits A and B) and 329 (referencing Dkt.  
 11 328 Exhibits D and F).

12           On June 25, 2021, the following Supplemental Protective Orders were entered by the  
 13 Court:

- 14           • 4:11-cv-06714-YGR - Dkts. 460, 461, 462, 463
- 15           • 4:19-cv-03074-YGR - Dkts. 354, 355, 356, 357
- 16           • 4:20-cv-05640-YGR - Dkts. 798, 799, 800, 801

17 These Supplemental Protective Orders that were entered appear to be the same as the Original  
 18 Supplemental Protective Orders, not the Revised Supplemental Protective Orders, which were  
 19 agreed to by the parties and interested non-parties.

20           Because the parties and interested non-parties have been able to reach an agreement on  
 21 these proposed supplemental protective orders, Apple respectfully requests that the Court vacate  
 22 the Supplemental Protective Orders entered at:

- 23           • 4:11-cv-06714-YGR - Dkts. 460, 461, 462, 463
- 24           • 4:19-cv-03074-YGR - Dkts. 354, 355, 356, 357
- 25           • 4:20-cv-05640-YGR - Dkts. 798, 799, 800, 801

26           Apple also respectfully requests that the Court enter the Revised Supplemental Protective  
 27 Orders which have been reattached here as Exhibit A (Zynga, Inc.), Exhibit B (Niantic, Inc.),  
 28 Exhibit C (The Walt Disney Company), and Exhibit D (Electronic Arts, Inc.).

**MOTION TO VACATE AND [PROPOSED] ORDERS ENTERING SUPPLEMENTAL PROTECTIVE  
 ORDERS**

1 Consumer and Developer Plaintiffs consent to this Motion to Vacate and Proposed Orders  
2 Entering Supplemental Protective Orders.

3 Dated: November 18, 2021

GIBSON, DUNN & CRUTCHER LLP

4 By: /s/ Ethan Dettmer

5  
6 Theodore J. Boutrous, Jr.  
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11 *Attorneys for Defendant Apple Inc.*

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MOTION TO VACATE AND [PROPOSED] ORDERS ENTERING SUPPLEMENTAL PROTECTIVE  
ORDERS

Case Nos.: 11-cv-06714-YGR; 19-cv-03074-YGR; 20-cv-05640-YGR

**EXHIBIT A**

1 BETSY C. MANIFOLD (182450)  
2 RACHELE R. BYRD (190634)  
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7 *Interim Class Counsel for the  
8 Consumer Plaintiffs*

9 **UNITED STATES DISTRICT COURT**

10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

11 **OAKLAND DIVISION**

12 IN RE APPLE iPHONE ANTITRUST  
13 LITIGATION

Case No. 4:11-cv-06714-YGR-TSH

[PROPOSED] SUPPLEMENTAL  
PROTECTIVE ORDER GOVERNING  
DISCOVERY FROM ZYNGA, INC.

Hon. Yvonne Gonzalez Rogers

16 DONALD R. CAMERON, et al.,

Case No. 4:19-cv-03074-YGR

17 Plaintiffs,

18 v.

19 APPLE INC.,

20 Defendant.

21 EPIC GAMES, INC., et al.,

Case No. 4:20-cv-05640-YGR

22 Plaintiff, Counter-defendant,

23 v.

24 APPLE INC.,

25 Defendant, Counterclaimant.

[PROPOSED] SUPPLEMENTAL PROTECTIVE ORDER  
GOVERNING DISCOVERY FROM ZYNGA, INC.

Case Nos. 4:11-cv-06714-YGR-TSH; 4:19-cv-03074-YGR-TSH; 4:20-cv-05640-YGR-TSH

1 Having considered Consumer Plaintiffs' Administrative Motion for Entry of Supplemental  
 2 Protective Orders and any opposition(s) filed in response thereto, and good cause appearing, the  
 3 Court hereby grants the motion and enters the following order:

4       **A. GENERAL PROVISIONS**

5       1. The definitions, terms and provisions contained in the Stipulated Amended  
 6 Protective Order on January 21, 2021 (Case No. 4:11-cv-06714-YGR, Dkt. No. 381; Case No.  
 7 4:19-cv-03074-YGR, Dkt. No. 252) (the "Protective Order") shall be incorporated herein by  
 8 reference as though fully set forth herein; provided, however, that in the event of a conflict between  
 9 any definition, term or provision of this Supplemental Protective Order and any definition, term or  
 10 provision of the Protective Order, this Supplemental Protective Order will control with respect to  
 11 such conflict.

12       2. The definitions, terms and provisions contained in this Supplemental Protective  
 13 Order shall apply only to those Discovery Materials produced by Zynga<sup>1</sup>, and nothing herein shall  
 14 provide any rights or protections to the Parties to the Litigations<sup>2</sup> beyond those set forth in the  
 15 Protective Order.

16       **B. ADDITIONAL DEFINITIONS**

17       1. Business Consultant: a consultant advising on or involved in competitive decision-  
 18 making.

19       2. Party: A named Plaintiff or Defendant in the Litigations; but not any other  
 20 individuals or entities listed on the docket, including those variously listed as "Interested Party"  
 21 "Respondent" or "Miscellaneous".

22       3. Party Expert: with respect to "ZYNGA HIGHLY CONFIDENTIAL – OUTSIDE  
 23 COUNSEL EYES ONLY", a person with specialized knowledge or experience in a matter

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25       <sup>1</sup> The term "Zynga" shall include any entity that responds to subpoenas served on Zynga Inc.  
 26 in the Litigations. References to "competitors" within this Supplemental Protective Order shall be  
 27 interpreted to mean competitors of Zynga Inc. and its parents and subsidiaries.

28       <sup>2</sup> Litigations shall mean *In re Apple iPhone Antitrust Litigation*, Case No. 4:11-cv-06714-YGR;  
*Cameron v. Apple Inc.*, Case No. 4:19-cv-03074-YGR; and *Epic Games, Inc. v. Apple Inc.*,  
 Case No. 4:20-cv-05640.

1 pertinent to the Litigations who: (1) has been retained by a Party or its counsel to serve as an expert  
 2 witness or as a consultant in this action; (2) is not a current employee or current Business  
 3 Consultant of a Party, Zynga, or of any Zynga competitor, or otherwise currently involved in  
 4 competitive decision-making for a Party, Zynga, or for any Zynga competitor; (3) has not been a  
 5 past employee or Business Consultant of a Party, Zynga, or Zynga's competitor, or otherwise been  
 6 involved in competitive decision-making for a Party, Zynga, or Zynga's competitor; and (4) at the  
 7 time of retention, is not anticipated to become an employee or Business Consultant of a Party,  
 8 Zynga, or of any Zynga competitor, or to be otherwise involved in competitive decision-making for  
 9 a Party, Zynga, or for any Zynga competitor. If, while this action is pending, a Party learns that any  
 10 of its retained experts or consultants as defined herein is anticipating to become, or has become, an  
 11 employee or Business Consultant of a Party, Zynga, or any Zynga competitor, or otherwise  
 12 involved in competitive decision-making for a Party, Zynga, or any Zynga competitor, the Party  
 13 learning such information shall promptly disclose the information to Zynga.

14       4.       **"ZYNGA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY"**

15       Information or Items: "Confidential Information or Items" produced by Zynga, that contains the  
 16 following types of extremely sensitive information—algorithms and source code; non-public,  
 17 commercially sensitive customer lists or communications; non-public financial, marketing, or  
 18 strategic business planning information; non-public information regarding prices, costs, margins, or  
 19 other financial metrics; information relating to research, development, maintenance, improvement,  
 20 testing of, or plans for existing or proposed future products; non-public information concerning  
 21 Zynga's data protection practices or security protocols; evaluation of the strengths or vulnerabilities  
 22 of Zynga's product offerings, including non-public pricing and cost information; confidential  
 23 contractual terms, proposed contractual terms, or negotiating positions (including internal  
 24 deliberations about negotiating positions) taken with respect to Zynga, Zynga's partners and  
 25 affiliates, or competitors to Zynga; information relating to pending or abandoned patent  
 26 applications that have not been made available to the public; confidential submissions to  
 27 governmental entities describing Zynga's legal positions or theories; personnel files; sensitive  
 28

1 personally identifiable information; commercially sensitive information about advertising including  
 2 financial metrics, contracts, platforms use, performance, methodology, strategy, or otherwise  
 3 commercially sensitive advertising information; commercially sensitive information about cloud  
 4 computing resources provided either by Zynga or a third-party provider, including historical or  
 5 forward-looking analyses and projections, pricing structures or financial metrics, usage metrics,  
 6 infrastructure, or contracts; commercially sensitive information about licensing, royalties, and fees  
 7 to acquire content or intellectual property; and communications that disclose any such information.

8           **C.     ADDITIONAL PROTECTIONS FOR ACCESS TO AND USE OF ZYNGA**  
 9           **PROTECTED MATERIALS**

10          1.       Manner of Designating “ZYNGA HIGHLY CONFIDENTIAL – OUTSIDE  
 11 COUNSEL EYES ONLY” Information or Items. Designation in conformity with this Supplemental  
 12 Protective Order requires:

13                   (a)     for information in documentary form (e.g., paper or electronic  
 14 documents, but excluding transcripts of depositions or other pretrial or trial proceedings), that  
 15 Zynga affix the legend “ZYNGA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES  
 16 ONLY” to each page of any document for which Zynga seeks protection under this Supplemental  
 17 Protective Order. If only a portion or portions of the material on a page qualifies for protection,  
 18 Zynga also must clearly identify the protected portion(s) (e.g., by making appropriate markings in  
 19 the margins).

20                  If Zynga makes original documents or materials available for inspection, it need not  
 21 designate them for protection until after the inspecting Party has indicated which material it would  
 22 like copied and produced. During the inspection and before the designation, all of the material  
 23 made available for inspection shall be deemed “ZYNGA HIGHLY CONFIDENTIAL – OUTSIDE  
 24 COUNSEL EYES ONLY.” After the inspecting Party has identified the documents it wants copied  
 25 and produced, Zynga must determine which documents, or portions thereof, qualify for protection  
 26 under this Supplemental Protective Order. Then, before producing the specified documents, Zynga  
 27 must affix the appropriate legend (“ZYNGA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL

EYES ONLY") to each page that contains such material. If only a portion or portions of the material on a page qualifies for protection, Zynga also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins.)

(b) for testimony given in deposition or in other pretrial proceedings not involving the court, that Zynga identify on the record, before the close of the deposition, hearing, or other proceeding, all protected testimony. When it is impractical to identify separately each portion of testimony that is entitled to protection and it appears that substantial portions of the testimony may qualify for protection, Zynga may invoke on the record (before the deposition, hearing, or other proceeding is concluded) a right to have up to 21 days to identify the specific portions of the testimony as to which protection is sought. Only those portions of the testimony that are appropriately designated for protection within the 21 days shall be covered by the provisions of this Supplemental Protective Order. Alternatively, Zynga may specify, at the deposition or up to 21 days afterwards if that period is properly invoked, that the entire transcript shall be treated as "ZYNGA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY." With respect to trial, Zynga can petition the Court for appropriate protective measures which shall be requested in advance of evidence being taken.

Zynga and the Parties shall give the other parties notice if they reasonably expect a deposition, hearing, or other proceeding to include "ZYNGA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY" Information or Items so that the other parties can ensure that only authorized individuals who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A to the Protective Order) are present at those proceedings. The use of a document as an exhibit at a deposition shall not in any way affect its designation as "ZYNGA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY."

Transcripts containing “ZYNGA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” Information or Items shall have an obvious legend on the title page that the transcript contains such material, and the title page shall be followed by a list of all pages (including line numbers as appropriate) that have been designated as “ZYNGA HIGHLY

**CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY**. Zynga shall inform the court reporter of these requirements. Any transcript that is prepared before the expiration of a 21-day period for designation shall be treated during that period as if it had been designated "**ZYNGA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY**" in its entirety unless otherwise agreed. After the expiration of that period, the transcript shall be treated only as actually designated.

(c) for information produced in some form other than documentary and for any other tangible items, that Zynga affix in a prominent place on the exterior of the container or containers in which the information or item is stored the legend "ZYNGA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY." If only a portion or portions of the information or item warrant protection, Zynga, to the extent practicable, shall identify the protected portion(s).

2. Disclosure of "ZYNGA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY" Information or Items. Nothing in this Supplemental Protective Order shall prohibit Zynga from choosing to disclose information to specific individuals or entities, including expert witnesses, at its own discretion. Unless otherwise ordered by the Court or permitted in writing by Zynga, a Party may disclose any information or item designated "ZYNGA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY" only to:

(a) the Party's Outside Counsel of Record in this action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for these Litigations and who have signed the "Acknowledgement and Agreement to be Bound" that is attached to the Protective Order as Exhibit A;

(b) Designated House Counsel of the Party, but only in the event that (i) information designated “ZYNGA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” is incorporated into and necessary to a Party’s work product that is to be filed or served in these Litigations; (ii) the Party discloses to Zynga the relevant excerpts from the work product that include the information designated “ZYNGA HIGH CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” prior to disclosure to Designated House Counsel of the Party; (iii) the Party

1 identifies by name and job title the Designated House Counsel with whom such work product will  
2 be shared for the purpose of reviewing and approving the work product in advance of filing or  
3 service; and (iv) Zynga provides consent to the disclosure, which shall not unreasonably be  
4 withheld;

5 (c) Party Experts (as defined in this Supplemental Protective Order) (1)  
6 to whom disclosure is reasonably necessary for these Litigations and (2) who have signed the  
7 “Acknowledgment and Agreement to Be Bound” (Exhibit A to the Protective Order);

8 (d) the Court and its personnel;

9 (e) court reporters and their staff, professional jury or trial consultants,  
10 and Professional Vendors to whom disclosure is reasonably necessary for these Litigations and who  
11 have signed the “Acknowledgment and Agreement to be Bound” (Exhibit A to the Protective  
12 Order); and

13 (f) the author or recipient of a document containing the information.

14 3. Any Party disclosing any information or item for which an “Acknowledgement and  
15 Agreement to be Bound” (Exhibit A to the Protective Order) is required shall collect and maintain a  
16 copy of each executed form and promptly provide them to Zynga upon Zynga’s request. Zynga will  
17 not disclose the identity of any expert who has signed the “Acknowledgement and Agreement to be  
18 Bound” without first obtaining the consent of the party that retained the expert or, alternatively,  
19 authorization from the Court.

20 4. In light of the close of discovery in *Epic Games, Inc. v. Apple Inc.*, Case No. 4:20-  
21 cv-05640, Dkt. No. 116, any discovery produced by Zynga in *In re Apple iPhone Antitrust*  
22 *Litigation* and *Cameron v. Apple Inc.* (Case No. 4:11-cv-06714-YGR) or (Case No. 4:19-cv-03074-  
23 YGR) and designated either “CONFIDENTIAL” or “ZYNGA HIGHLY CONFIDENTIAL –  
24 OUTSIDE COUNSEL EYES ONLY” shall not be produced in or used at trial in *Epic Games, Inc.*  
25 *v. Apple Inc.*

26 5. If additional named plaintiffs are joined in *Cameron v. Apple Inc.* Case No. 4:19-cv-  
27 03074-YGR, the existing named Plaintiffs in that matter—Donald R. Cameron and Pure Sweat

Basketball, Inc.—shall notify Zynga. Zynga shall have reasonable opportunity to seek further protective orders and object to sharing of any discovery produced by Zynga and designated either “CONFIDENTIAL” or “ZYNGA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” as to the new named Plaintiffs.

6. All other provisions of the Protective Order, including Paragraphs 2, 3, 4, 5.3, 6, 7.1, 9, 10, 11, 12, 13, and 14 apply mutatis mutandis to information designated “ZYNKA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” to the same extent as they apply to information designated as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”; except that the provision in Paragraph 3 of the Protective Order providing that any use of Protected Material at trial shall be governed by a separate agreement or order shall not apply to information designated “ZYNKA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY”. Unless otherwise ordered by the Court or expressly permitted by Zynga, no Party seeking to introduce documents or information designated “ZYNKA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” into the record at trial may disclose the materials to any persons other than those identified in Paragraph C.2. of this Supplemental Protective Order.

## IT IS SO ORDERED.

DATED: November \_\_\_\_\_, 2021

HON. YVONNE GONZALEZ ROGERS  
United States District Judge

**EXHIBIT B**

BETSY C. MANIFOLD (182450)  
RACHELE R. BYRD (190634)  
BRITTANY N. DEJONG (258766)  
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## *Consumer Plaintiffs' Interim Class Counsel*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

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**IN RE APPLE IPHONE ANTITRUST  
LITIGATION**

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Case No. 4:11-cv-06714-YGR-TSH

**[PROPOSED] SUPPLEMENTAL  
PROTECTIVE ORDER GOVERNING  
DISCOVERY FROM NIANTIC, INC.**

## **Hon. Yvonne Gonzalez Rogers**

DONALD R. CAMERON, *et al.*,

Case No. 4:19-cv-03074-YGR-TSH

## Plaintiffs,

V.

APPLE INC.

## Defendant

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EPIC GAMES INC

## Plaintiff and Counter-defendant

V

APPLE INC

#### **Defendant and Counterclaim**

Case No. 4:20-cv-05640-YGR-TSH

[PROPOSED] SUPPLEMENTAL PROTECTIVE ORDER GOVERNING  
DISCOVERY FROM NIANTIC, INC.

Case Nos. 4:11-cv-06714-YGR-TSH; 4:19-cv-03074-YGR-TSH; 4:20-cv-05640-YGR-TSH

1 Having considered Consumer Plaintiffs' Administrative Motion for Entry of Supplemental  
 2 Protective Orders and any opposition(s) filed in response thereto, and good cause appearing, the  
 3 Court hereby grants the motion and enters the following order:

4       **A. GENERAL PROVISIONS**

5       1. The definitions, terms and provisions contained in the Stipulated Amended  
 6 Protective 6 Order on January 21, 2021 (Case No. 4:11-cv-06714-YGR, Dkt. No. 381; Case No.  
 7 4:19-cv-03074-YGR, Dkt. No. 252) (the "Protective Order") shall be incorporated herein by  
 8 reference as though fully set forth herein; provided, however, that in the event of a conflict between  
 9 any definition, term or provision of this Supplemental Protective Order and any definition, term or  
 10 provision of the Protective Order, this Supplemental Protective Order will control with respect to  
 11 such conflict.

12       2. The definitions, terms and provisions contained in this Supplemental Protective  
 13 Order shall apply only to those Discovery Materials produced by Niantic<sup>1</sup>, and nothing herein shall  
 14 provide any rights or protections to the Parties to the Litigations<sup>2</sup> beyond those set forth in the  
 15 Protective Order.

16       **B. ADDITIONAL DEFINITIONS**

17       1. Business Consultant: a consultant advising on or involved in competitive decision-  
 18 making.

19       2. Party Expert: with respect to "NIANTIC HIGHLY CONFIDENTIAL – OUTSIDE  
 20 COUNSEL EYES ONLY," a person with specialized knowledge or experience in a matter  
 21 pertinent to the Litigations who: (1) has been retained by a Party or its counsel to serve as an expert  
 22 witness or as a consultant in this action; (2) is not a current employee or current Business  
 23 Consultant of a Party, Niantic, or of any Niantic competitor, or otherwise currently involved in

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 25       <sup>1</sup> The term "Niantic" shall include any entity that responds to subpoenas served on Niantic,  
 26 Inc. in the Litigations. References to "competitors" within this Supplemental Protective Order shall  
 27 be interpreted to mean competitors of Niantic, Inc. and its subsidiaries.

28       <sup>2</sup> Litigations shall mean *In re Apple iPhone Antitrust Litigation*, Case No. 4:11-cv-06714-  
 YGR; *Cameron v. Apple Inc.*, Case No. 4:19-cv-03074-YGR; and *Epic Games, Inc. v. Apple Inc.*;  
 Case No. 4:20-cv-05640.

1 competitive decision-making for a Party, Niantic, or for any Niantic competitor; (3) has not, within  
 2 the 12 months preceding the entry of this Protective Order, been an employee or Business  
 3 Consultant of a Party, Niantic, or Niantic's competitor, or otherwise been involved in competitive  
 4 decision-making for a Party, Niantic, or Niantic's competitor; and (4) at the time of retention, is not  
 5 anticipated to become an employee or Business Consultant of a Party, Niantic, or of any Niantic  
 6 competitor, or to be otherwise involved in competitive decision-making for a Party or for any  
 7 Niantic competitor. If, while this action is pending, a Party learns that any of its retained experts or  
 8 consultants as defined herein is anticipating to become, or has become, an employee or Business  
 9 Consultant of Niantic or any Niantic competitor, or otherwise involved in competitive decision-  
 10 making for Niantic or any Niantic competitor, the Party learning such information shall promptly  
 11 disclose the information to Niantic.

12       3.       "NIANTIC HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY"

13 Information or Items: extremely sensitive "Confidential Information or Items" produced by Niantic  
 14 and that contain algorithms and source code; non-public, commercially sensitive customer lists or  
 15 communications; non-public financial, marketing, or strategic business information; current or  
 16 future non-public information regarding prices, costs, margins, or other financial metrics;  
 17 information relating to research, development, testing of, or plans for existing or proposed future  
 18 products; non-public information concerning Niantic's data protection practices and security  
 19 protocols or other matters related to data security or privacy; evaluation of the strengths and  
 20 vulnerabilities of Niantic's product offerings, including non-public pricing and cost information;  
 21 confidential contractual terms, proposed contractual terms, or negotiating positions (including  
 22 internal deliberations about negotiating positions) taken with respect to Niantic or competitors to  
 23 Niantic; non-public intellectual property information; information relating to pending or abandoned  
 24 patent applications that have not been made available to the public; confidential submissions to  
 25 governmental entities describing Niantic's legal positions or theories or other matters; personnel  
 26 files; sensitive personally identifiable information; and communications that disclose any such

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information, disclosure of which to a Party or another Non-Party would create a substantial risk of serious harm that could not be avoided by less restrictive means.

**C. ADDITIONAL PROTECTIONS FOR ACCESS TO AND USE OF NIANTIC  
PROTECTED MATERIALS**

1. Manner of Designating “NIANTIC HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” Information or Items. Designation in conformity with this Supplemental Protective Order requires:

(a) for information in documentary form (e.g., paper or electronic documents, but excluding transcripts of depositions or other pretrial or trial proceedings), that Niantic affix the legend “NIANTIC HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” to each page of any document for which Niantic seeks protection under this Supplemental Protective Order. If only a portion or portions of the material on a page qualifies for protection, Niantic also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

If Niantic makes original documents or materials available for inspection, it need not designate them for protection until after the inspecting Party has indicated which material it would like copied and produced. During the inspection and before the designation, all of the material made available for inspection shall be deemed “NIANTIC HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY.” After the inspecting Party has identified the documents it wants copied and produced, Niantic must determine which documents, or portions thereof, qualify for protection under this Supplemental Protective Order. Then, before producing the specified documents, Niantic must affix the appropriate legend (“NIANTIC HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY”) to each page that contains such material. If only a portion or portions of the material on a page qualifies for protection, Niantic also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

(b) for testimony given in deposition or in other pretrial proceedings not involving the Court, that Niantic identify on the record, before the close of the deposition, hearing,

1 or other proceeding, all protected testimony. When it is impractical to identify separately each  
 2 portion of testimony that is entitled to protection and it appears that substantial portions of the  
 3 testimony may qualify for protection, Niantic may invoke on the record (before the deposition,  
 4 hearing, or other proceeding is concluded) a right to have up to 21 days to identify the specific  
 5 portions of the testimony as to which protection is sought. Only those portions of the testimony that  
 6 are appropriately designated for protection within the 21 days shall be covered by the provisions of  
 7 this Supplemental Protective Order. Alternatively, Niantic may specify, at the deposition or up to  
 8 21 days afterwards if that period is properly invoked, that the entire transcript shall be treated as  
 9 "NIANTIC HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY." With respect to  
 10 trial, Niantic can petition the Court for appropriate protective measures which shall be requested in  
 11 advance of evidence being taken.

12 Niantic and the Parties shall give the other parties notice if they reasonably expect a  
 13 deposition, hearing, or other proceeding to include "NIANTIC HIGHLY CONFIDENTIAL –  
 14 OUTSIDE COUNSEL EYES ONLY" Information or Items so that the other parties can ensure that  
 15 only authorized individuals who have signed the "Acknowledgment and Agreement to Be Bound"  
 16 (Exhibit A) are present at those proceedings. The use of a document as an exhibit at a deposition  
 17 shall not in any way affect its designation as "NIANTIC HIGHLY CONFIDENTIAL – OUTSIDE  
 18 COUNSEL EYES ONLY."

19 Transcripts containing "NIANTIC HIGHLY CONFIDENTIAL – OUTSIDE  
 20 COUNSEL EYES ONLY" Information or Items shall have an obvious legend on the title page that  
 21 the transcript contains such material, and the title page shall be followed by a list of all pages  
 22 (including line numbers as appropriate) that have been designated as "NIANTIC HIGHLY  
 23 CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY". Niantic shall inform the court reporter  
 24 of these requirements. Any transcript that is prepared before the expiration of a 21-day period for  
 25 designation shall be treated during that period as if it had been designated "NIANTIC HIGHLY  
 26 CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY" in its entirety unless otherwise agreed.  
 27 After the expiration of that period, the transcript shall be treated only as actually designated.  
 28

(c) for information produced in some form other than documentary and for any other tangible items, that Niantic affix in a prominent place on the exterior of the container or containers in which the information or item is stored the legend "NIANTIC HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY." If only a portion or portions of the information or item warrant protection, Niantic, to the extent practicable, shall identify the protected portion(s).

2. **Disclosure of “NIANTIC HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” Information or Items.** Unless otherwise ordered by the Court or permitted in writing by Niantic, a Party may disclose any information or item designated “NIANTIC HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” only to:

(a) the Party's Outside Counsel of Record in this action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for these Litigations and who have signed the "Acknowledgement and Agreement to be Bound" that is attached to the Protective Order as Exhibit A;

(b) Designated House Counsel of the Party, but only in the event that (i) information designated “NIANTIC HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” is incorporated into and necessary to a Party’s work product that is to be filed or served in these Litigations; (ii) the Party discloses to Niantic the relevant excerpts from the work product that include the information designated “NIANTIC HIGH CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” prior to disclosure to Designated House Counsel of the Party; (iii) the Party identifies by name and job title the Designated House Counsel, which shall be limited to two Apple litigation attorneys with primary responsibility for overseeing these litigations, with whom such work product will be shared for the purpose of reviewing and approving the work product in advance of filing or service; and (iv) Niantic provides consent to the disclosure, which shall not unreasonably be withheld;

(c) Party Experts (as defined in this Supplemental Protective Order) (1) to whom disclosure is reasonably necessary for these Litigations and (2) who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(d) the Court and its personnel;

(e) court reporters and their staff, professional jury or trial consultants, and Professional Vendors to whom disclosure is reasonably necessary for these Litigations and who have signed the “Acknowledgment and Agreement to be Bound” (Exhibit A); and

(f) the author or recipient of a document containing the information.

3. In light of the close of discovery in *Epic Games, Inc. v. Apple Inc.*, Case No. 4:20-cv-05640, Dkt. No. 116, any discovery produced by Niantic in *In re Apple iPhone Antitrust Litigation* and *Cameron v. Apple Inc.* (Case No. 4:11-cv-06714-YGR) or (Case No. 4:19-cv-03074-YGR) and designated either “CONFIDENTIAL” or “NIANTIC HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” shall not be produced in or used at trial in *Epic Games, Inc. v. Apple Inc.*

4. If additional named plaintiffs are joined in *Cameron v. Apple Inc.* Case No. 4:19-cv-03074-YGR, the existing named Plaintiffs in that matter—Donald R. Cameron and Pure Sweat Basketball, Inc.—shall notify Niantic. Niantic shall have reasonable opportunity to seek further protective orders and object to sharing of any discovery produced by Niantic and designated either “CONFIDENTIAL” or “NIANTIC HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” as to the new named Plaintiffs.

All other provisions of the Protective Order, including Paragraphs 2, 3, 4, 5.3, 6, 7.1, 9, 10, 11, 12, 13, and 14 apply mutatis mutandis to information designated “NIANTIC HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” to the same extent as they apply to information designated as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”; except that the provision in Paragraph 3 of the Protective Order providing that any use of Protected Material at trial shall be governed by a separate agreement or order shall not apply to information designated “NIANTIC HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY.”

1 Unless otherwise ordered by the Court or expressly permitted by Niantic, no Party seeking to  
2 introduce documents or information designated “NIANTIC HIGHLY CONFIDENTIAL –  
3 OUTSIDE COUNSEL EYES ONLY” into the record at trial may disclose the materials to any  
4 persons other than those identified in Paragraph C.2. of this Supplemental Protective Order.

5 **IT IS SO ORDERED.**

6  
7 DATED: November \_\_\_\_\_, 2021

8 \_\_\_\_\_  
9 HON. YVONNE GONZALEZ ROGERS  
United States District Court Judge

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**EXHIBIT C**

BETSY C. MANIFOLD (182450)  
RACHELE R. BYRD (190634)  
BRITTANY N. DEJONG (258766)  
**WOLF HALDENSTEIN ADLER  
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### *Consumer Plaintiffs' Interim Class Counsel*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

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**IN RE APPLE IPHONE ANTITRUST  
LITIGATION**

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Case No. 4:11-cv-06714-YGR-TSH

**[PROPOSED] SUPPLEMENTAL  
PROTECTIVE ORDER GOVERNING  
DISCOVERY FROM THE WALT DISNEY  
COMPANY**

DONALD R. CAMERON, *et al.*,

## Hon. Yvonne Gonzalez Rogers

## Plaintiffs,

Case No. 4:19-cv-03074-YGR-TSH

V.

APPLE INC.

## Defendant

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EPIC GAMES INC

Case No. 4:20-cv-05640-YGB-TSH

## **Plaintiff and Counter-defendant,**

V.

APPLE INC.

#### Defendant and Counterclaimant

1 Having considered Consumer Plaintiffs' Administrative Motion for Entry of Supplemental  
 2 Protective Orders and any opposition(s) filed in response thereto, and good cause appearing, the  
 3 Court hereby grants the motion and enters the following order:

4 **A. GENERAL PROVISIONS**

5       1. The definitions, terms and provisions contained in the Stipulated Amended  
 6 Protective Order on January 21, 2021 (Case No. 4:11-cv-06714-YGR, Dkt. No. 381; Case No.  
 7 4:19-cv-03074-YGR, Dkt. No. 252) (the "Protective Order") shall be incorporated herein by  
 8 reference as though fully set forth herein; provided, however, that in the event of a conflict between  
 9 any definition, term or provision of this Supplemental Protective Order and any definition, term or  
 10 provision of the Protective Order, this Supplemental Protective Order will control with respect to  
 11 such conflict.

12       2. The definitions, terms and provisions contained in this Supplemental Protective  
 13 Order shall apply only to those Discovery Materials produced by Disney<sup>1</sup>, and nothing herein shall  
 14 provide any rights or protections to the Parties to the Litigations<sup>2</sup> beyond those set forth in the  
 15 Protective Order.

16 **B. ADDITIONAL DEFINITIONS**

17       1. Business Consultant: a consultant advising on or involved in competitive decision  
 18 making.

19       2. Party Expert: with respect to the "DISNEY HIGHLY CONFIDENTIAL –  
 20 OUTSIDE COUNSEL EYES ONLY" designation, a person with specialized knowledge or  
 21 experience in a matter pertinent to the Litigations who: (1) has been retained by a Party or its  
 22 counsel to serve as an expert witness or as a consultant in the Litigations; (2) is not a current  
 23 employee or current Business Consultant of a Party, Disney, or any Disney competitor, or

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25       <sup>1</sup> Disney shall refer to The Walt Disney Company, Hulu, LLC ("Hulu"), and ESPN  
 26 Productions, Inc. ("ESPN"). Hulu and ESPN are affiliates of The Walt Disney Company.

27       <sup>2</sup> Litigations shall mean *In re Apple iPhone Antitrust Litigation*, Case No. 4:11-cv-06714-YGR; *Cameron v. Apple Inc.*, Case No: 4:19-cv-03074-YGR; and *Epic Games, Inc. v. Apple Inc.*, Case No. 4:20-cv-05640.

1 otherwise currently involved in competitive decision-making for a Party, Disney, or any Disney  
 2 competitor; (3) has not, within the 12 months preceding the entry of this Protective Order, been an  
 3 employee or Business Consultant of a Party, Disney, or any Disney competitor, or otherwise been  
 4 involved in competitive decision-making for a Party, Disney, or any Disney competitor; and (4) at  
 5 the time of retention, is not anticipated to become an employee or Business Consultant of a Party,  
 6 Disney, or any Disney competitor, or to be otherwise involved in competitive decision making for a  
 7 Party, Disney, or any Disney competitor. If, while the Litigations are pending, a Party learns that  
 8 any of its retained experts or consultants as defined herein is anticipating to become, or has become  
 9 an employee or Business Consultant of Disney or any Disney competitor, or otherwise involved in  
 10 competitive decision-making for Disney or any Disney competitor, the Party learning such  
 11 information shall promptly disclose the information to Disney.

12       3.       “DISNEY HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY”

13 Information or Items: extremely sensitive “Confidential Information or Items” produced by Disney  
 14 and that contain algorithms and source code; non-public, commercially sensitive customer lists or  
 15 communications; non-public financial, marketing, or strategic business planning information; past,  
 16 current, or future non-public information regarding prices, costs, margins, or other financial  
 17 metrics; information relating to research, development, testing of, or plans for existing or proposed  
 18 future products; non-public information concerning Disney’s data protection practices and security  
 19 protocols; evaluation of the strengths and vulnerability of Disney’s product offerings, including  
 20 non-public pricing and cost information; confidential contractual terms, proposed contractual terms,  
 21 or negotiating positions (including internal deliberations about negotiating positions) taken with  
 22 respect to Disney or competitors to Disney; information relating to pending or abandoned patent  
 23 applications that have not been made available to the public; confidential submissions to  
 24 governmental entities describing Disney’s legal positions or theories; personnel files; sensitive  
 25 personally identifiable information; and communications that disclose any such information.

26       **C.       ADDITIONAL PROTECTIONS FOR ACCESS TO AND USE OF DISNEY**  
 27                   **PROTECTED MATERIALS**

1       1.       Manner of Designating “DISNEY HIGHLY CONFIDENTIAL – OUTSIDE  
 2       COUNSEL EYES ONLY” Information or Items. To qualify for protection as “DISNEY HIGHLY  
 3       CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY,” Disney must affix the legend  
 4       “DISNEY HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” to each page of  
 5       any document for which Disney seeks protection under this Supplemental Protective Order.

6       2.       Disclosure of “DISNEY HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL  
 7       EYES ONLY” Information or Items. Unless otherwise ordered by the Court or permitted in writing  
 8       by Disney, a Party may disclose any information or item designated “DISNEY HIGHLY  
 9       CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” only to:

10                     (a)       the Party’s Outside Counsel of Record in the Litigations, as well as  
 11       employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the  
 12       information for these Litigations and who have signed the “Acknowledgement and Agreement to  
 13       be Bound” that is attached to the Protective Order as Exhibit A;

14                     (b)       Designated House Counsel of the Party, but only in the event that (i)  
 15       information designated “DISNEY HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES  
 16       ONLY” is incorporated into and necessary to a Party’s work product that is to be filed or served in  
 17       these Litigations; (ii) the Party discloses to Disney the relevant excerpts from the work product that  
 18       include the information designated “DISNEY HIGH CONFIDENTIAL – OUTSIDE COUNSEL  
 19       EYES ONLY” prior to disclosure to Designated House Counsel of the Party; (iii) the Party  
 20       identifies by name and job title the Designated House Counsel with whom such work product will  
 21       be shared for the purpose of reviewing and approving the work product in advance of filing or  
 22       service; and (iv) Disney provides consent to the disclosure, which shall not unreasonably be  
 23       withheld;

24                     (c)       Party Experts (as defined in this Supplemental Protective Order) (1)  
 25       to whom disclosure is reasonably necessary for these Litigations and (2) who have signed the  
 26       “Acknowledgment and Agreement to Be Bound” (Exhibit A);

27                     (d)       the Court and its personnel;

(e) court reporters and their staff, professional jury or trial consultants, and Professional Vendors to whom disclosure is reasonably necessary for these Litigations and who have signed the “Acknowledgment and Agreement to be Bound” (Exhibit A); and

(f) the author or recipient of a document containing the information.

3. All other provisions of the Protective Order, including Paragraphs 2, 3, 4, 5.2, 5.3, 6, 7.1, 9, 10, 11, 12, 13, and 14 apply mutatis mutandis to information designated “DISNEY HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” to the same extent as they apply to information designated as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”; except that the provision in Paragraph 3 of the Protective Order providing that any use of Protected Material at trial shall be governed by a separate agreement or order shall not apply to information designated “DISNEY HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY.” Unless otherwise ordered by the Court or expressly permitted by Disney, no Party seeking to introduce documents or information designated “DISNEY HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” into the record at trial may disclose the materials to any persons other than those identified in Paragraph C.2. of this Supplemental Protective Order. In the event a Party seeks to introduce documents or information designated “DISNEY HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” at trial in a manner that will result in disclosure to persons other than those specified in Paragraph C.2 of this Supplemental Protective Order, the Party shall promptly notify Disney in writing such that Disney may raise any objection

## IT IS SO ORDERED.

DATED: November , 2021

**HON. YVONNE GONZALEZ ROGERS**  
United States District Court Judge

**EXHIBIT D**

1 BETSY C. MANIFOLD (182450)  
2 RACHELE R. BYRD (190634)  
3 BRITTANY N. DEJONG (258766)  
**WOLF HALDENSTEIN ADLER**  
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manifold@whafh.com  
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7 *Interim Class Counsel for the  
8 Consumer Plaintiffs*

9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
11 **OAKLAND DIVISION**

12 IN RE APPLE IPHONE ANTITRUST  
13 LITIGATION

Case No. 4:11-cv-06714-YGR-TSH

[PROPOSED] SUPPLEMENTAL  
PROTECTIVE ORDER GOVERNING  
DISCOVERY FROM ELECTRONIC ARTS  
INC.

**Hon. Yvonne Gonzalez Rogers**

16 DONALD R. CAMERON, *et al.*,

Case No. 4:19-cv-03074-YGR-TSH

17 Plaintiffs,

18 v.

19 APPLE INC.,

20 Defendant.

21 EPIC GAMES, INC.,

22 Plaintiff and Counter-defendant,

23 v.

24 APPLE INC.,

25 Defendant and Counterclaimant.

Case No. 4:20-cv-03074-YGR-TSH

Having considered Consumer Plaintiffs' Administrative Motion for Entry of Supplemental Protective Orders and any opposition(s) filed in response thereto, and good cause appearing, the Court hereby grants the motion and enters the following order:

**A. GENERAL PROVISIONS**

1. The definitions, terms and provisions contained in the Stipulated Amended Protective Order on January 21, 2021 (Case No. 4:11-cv-06714-YGR, Dkt. No. 381; Case No. 4:19-cv-03074-YGR, Dkt. No. 252) (the "Protective Order") shall be incorporated herein by reference as though fully set forth herein; provided, however, that in the event of a conflict between any definition, term or provision of this Supplemental Protective Order and any definition, term or provision of the Protective Order, this Supplemental Protective Order will control with respect to such conflict.

2. The definitions, terms and provisions contained in this Supplemental Protective Order shall apply only to those Discovery Materials produced by Electronic Arts Inc. ("EA"), and nothing herein shall provide any rights or protections to the Parties to the Litigations<sup>1</sup> beyond those set forth in the Protective Order.

**B. ADDITIONAL DEFINITIONS**

1. Business Consultant: a consultant advising on or involved in competitive decision-making.

2. Party Expert: with respect to the "EA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY" designation, a person with specialized knowledge or experience in a matter pertinent to the Litigations who: (1) has been retained by a Party or its counsel to serve as an expert witness or as a consultant in the Litigations; (2) is not a current employee or current Business Consultant of a Party, EA, or any EA competitor, or otherwise currently involved in competitive decision-making for a Party, EA, or any EA competitor; (3) has not, within the 12 months preceding the entry of this Protective Order, been an employee or Business Consultant of a

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<sup>1</sup> Litigations shall mean *In re Apple iPhone Antitrust Litigation*, Case No 4:11-cv-06714-YGR; *Cameron v. Apple Inc.*, Case No. 4:19-cv-03074-YGR; and *Epic Games, Inc. v. Apple Inc.*, Case No. 4:20-cv-05640.

1 Party, EA, or any EA competitor, or otherwise been involved in competitive decision-making for a  
 2 Party, EA, or any EA competitor; and (4) at the time of retention, is not anticipated to become an  
 3 employee or Business Consultant of a Party, EA, or any EA competitor, or to be otherwise involved  
 4 in competitive decision-making for a Party, EA, or any EA competitor. If, while the Litigations are  
 5 pending, a Party learns that any of its retained experts or consultants as defined herein is  
 6 anticipating to become, or has become, an employee or Business Consultant of EA or any EA  
 7 competitor, or otherwise involved in competitive decision-making for EA or any EA competitor,  
 8 the Party learning such information shall promptly disclose the information to EA.

9       3.     **“EA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY”**

10     Information or Items: extremely sensitive “Confidential Information or Items” produced by EA and  
 11 that contain algorithms and source code; non-public, commercially sensitive customer lists or  
 12 communications; non-public financial, marketing, or strategic business planning information; past,  
 13 current, or future non-public information regarding prices, costs, margins, or other financial  
 14 metrics; information relating to research, development, testing of, or plans for existing or proposed  
 15 future products; non-public information concerning EA’s data protection practices and security  
 16 protocols; evaluation of the strengths and vulnerability of EA’s product offerings, including non-  
 17 public pricing and cost information; confidential contractual terms, proposed contractual terms, or  
 18 negotiating positions (including internal deliberations about negotiating positions) taken with  
 19 respect to EA or competitors to EA; information relating to pending or abandoned patent  
 20 applications that have not been made available to the public; confidential submissions to  
 21 governmental entities describing EA’s legal positions or theories; personnel files; sensitive  
 22 personally identifiable information; and communications that disclose any such information.

23       C.     **ADDITIONAL PROTECTIONS FOR ACCESS TO AND USE OF EA**  
 24                   **PROTECTED MATERIALS**

25       1.     Manner of Designating “EA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL  
 26                   EYES ONLY” Information or Items. To qualify for protection as “EA HIGHLY CONFIDENTIAL  
 27                   – OUTSIDE COUNSEL EYES ONLY,” EA must affix the legend “EA HIGHLY

1 CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” to each page of any document for  
 2 which EA seeks protection under this Supplemental Protective Order.”

3       2.       Disclosure of “EA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES  
 4 ONLY” Information or Items. Unless otherwise ordered by the Court or permitted in writing by  
 5 EA, a Party may disclose any information or item designated “EA HIGHLY CONFIDENTIAL –  
 6 OUTSIDE COUNSEL EYES ONLY” only to:

7                 (a)      the Party’s Outside Counsel of Record in the Litigations, as well as  
 8 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the  
 9 information for these Litigations and who have signed the “Acknowledgement and Agreement to  
 10 be Bound” that is attached to the Protective Order as Exhibit A;

11                 (b)      Designated House Counsel of the Party, but only in the event that (i)  
 12 information designated “EA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY”  
 13 is incorporated into and necessary to a Party’s work product that is to be filed or served in these  
 14 Litigations; (ii) the Party discloses to EA the relevant excerpts from the work product that include  
 15 the information designated “EA HIGH CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY”  
 16 prior to disclosure to Designated House Counsel of the Party; (iii) the Party identifies by name and  
 17 job title the Designated House Counsel with whom such work product will be shared for the  
 18 purpose of reviewing and approving the work product in advance of filing or service; and (iv) EA  
 19 provides consent to the disclosure, which shall not unreasonably be withheld;

20                 (c)      Party Experts (as defined in this Supplemental Protective Order) (1)  
 21 to whom disclosure is reasonably necessary for these Litigations and (2) who have signed the  
 22 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

23                 (d)      the Court and its personnel;

24                 (e)      court reporters and their staff, professional jury or trial consultants,  
 25 and Professional Vendors to whom disclosure is reasonably necessary for these Litigations and who  
 26 have signed the “Acknowledgment and Agreement to be Bound” (Exhibit A); and

27                 (f)      the author or recipient of a document containing the information.

1       3. All other provisions of the Protective Order, including Paragraphs 2, 3, 4, 5.3, 6, 7.1,  
2 9, 10, 11, 12, 13, and 14 apply mutatis mutandis to information designated “EA HIGHLY  
3 CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” to the same extent as they apply to  
4 information designated as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY;” except  
5 that the provision in Paragraph 3 of the Protective Order providing that any use of Protected  
6 Material at trial shall be governed by a separate agreement or order shall not apply to information  
7 designated “EA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY.” Unless  
8 otherwise ordered by the Court or expressly permitted by EA, no Party seeking to introduce  
9 documents or information designated “EA HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL  
10 EYES ONLY” into the record at trial may disclose the materials to any persons other than those  
11 identified in Paragraph C.2. of this Supplemental Protective Order. In the event a Party seeks to  
12 introduce documents or information designated “EA HIGHLY CONFIDENTIAL – OUTSIDE  
13 COUNSEL EYES ONLY” at trial in a manner that will result in disclosure to persons other than  
14 those specified in Paragraph C.2 of this Supplemental Protective order, the Party shall promptly  
15 notify in writing the EA such that EA may raise any objection.

## **IT IS SO ORDERED.**

DATED: November \_\_\_\_\_, 2021

HON. YVONNE GONZALEZ ROGERS  
United States District Court Judge